

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN D. PYLANT

Appeal No. 2004-0063
Application 09/767,359

ON BRIEF

Before COHEN, FRANKFORT, and McQUADE, Administrative Patent Judges.

FRANKFORT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 through 15, which are all of the claims pending in this application.

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Appellant's invention relates to a carrier tape system used for packaging, transporting, and automatically taking out components that are placed in pockets formed in the carrier tape. More particularly, the invention addresses an apparatus and method for uniformly sealing and peeling a cover tape that is used to protect components placed in the pockets of the carrier tape by employing means on the carrier tape for minimizing or eliminating surface irregularities and distortions of the carrier tape in the region of the bonding zones of the cover tape to the carrier tape. Claims 1, 7 and 14 are representative of the subject matter on appeal and a copy of those claims can be found in the Appendix to appellant's brief.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Kaneko et al. (Kaneko)	4,736,841	Apr. 12, 1988
Ball	4,781,953	Nov. 1, 1988

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Claims 1 through 3, 5 through 11 and 13 through 15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Kaneko.

Claims 1 through 3, 6 through 11, 14 and 15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ball.

Claims 1 through 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kaneko.

Rather than reiterate the conflicting viewpoints advanced by appellant and the examiner regarding the above-noted rejections, we refer to the final rejection (Paper No. 6, mailed May 9, 2002), the examiner's answer (Paper No. 14, mailed April 8, 2003) and appellant's brief (Paper No. 13, filed February 20, 2003) for a full exposition thereof.

Before turning to the merits of the rejections on appeal, we note that appellant's brief (at page 4) indicates that claims 1 through 15 "stand or fall together." Thus, we have selected independent claim 1 as being representative of the issues on

appeal and will decide the appeal with regard to that claim alone. In accord with appellant's grouping of claims, claims 2 through 15 will stand or fall with our determination regarding independent claim 1.

OPINION

Having carefully reviewed the anticipation and obviousness issues raised in this appeal in light of the record before us, we have come to the conclusion that the examiner's various rejections of the appealed claims under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) will be sustained. Our reasoning in support of this determination follows.

The embodiment best reflective of appellant's claimed subject matter is that seen in Figures 5A and 5B of the application, which figures show a carrier tape (302), a plurality of pockets (304), depressed portions (306) formed in between each of the plurality of pockets, and longitudinally extending bonding zones exemplified by (330) where a cover tape (not shown) will be bonded to the carrier tape on opposite sides of the plurality of

pockets. It is indicated on page 14 of the specification that, when depressed portions (306) are present, surface irregularities and distortions are minimized in the bonding zones (330) of the carrier tape.

The only argument raised by appellant in this appeal (brief, pages 5-7) is that both Kaneko and Ball fail to teach or suggest bonding zones on a carrier tape having depressed portions that assist in providing a substantially uniform surface on the bonding zones and are spaced apart from the bonding zones. More specifically, looking at the carrier and cover tapes seen in Figures 1 and 2 of both Kaneko and Ball, appellant contends that the prior art teaches stepped or depressed portions (19, 21 of Kaneko and 30 of Ball) forming boundaries with the heat sealed portions therein (e.g., 20 of Kaneko), which appellant urges is totally contrary to what is claimed in appellant's invention. In particular, appellant argues that neither Kaneko nor Ball teaches that the depressed portions are spaced apart from the bonding zones (answer, page 7).

We find appellant's argument to be unpersuasive of any error on the examiner's part. While each of the independent claims on appeal includes a limitation regarding the depressed portions being "spaced apart from the bonding zones," we observe that the exact nature of the spacing is not specified in the claims. Again looking to Figures 1 and 2 of Kaneko and Ball, we note that in each of the applied patents the depressed portions are vertically spaced apart from the bonding zones of the cover tape to the carrier tape, thus meeting the broad language of appellant's claims on appeal. From Figures 5A and 5B of the application, it appears that appellant's bonding zones are intended to be both vertically and laterally spaced apart from the depressed portions (306) of the carrier tape, however, the claims on appeal do not bring out this distinction.

An anticipation under 35 U.S.C. 102(b) is established when a single prior art reference discloses, either expressly or under principles of inherency, each and every element or limitation of a claimed invention. See In re Schreiber, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed Cir 1997) and RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984).

However, we observe that the law of anticipation does not require that the reference teach what the appellant has disclosed but only that the claims on appeal "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference. See Kalman v. Kimberly Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983). In the present case, claim 1 on appeal clearly reads on the apparatus for storing a plurality of components seen in Figures 1 and 2 of both Kaneko and Ball.

For the above reasons, we will sustain the examiner's rejections of claim 1 under 35 U.S.C. § 102(b) as being anticipated by each of Kaneko and Ball, and the rejection of claim 1 under 35 U.S.C. § 103(a) as being unpatentable over Kaneko. In accord with appellant's grouping of claims (brief, page 4), claims 2 through 15 are considered to fall with claim 1.

In light of the foregoing, the decision of the examiner rejecting claims 1 through 15 of the present application is affirmed.

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No time period for taking any subsequent action in
connection with this appeal may be extended under 37 CFR
§ 1.136(a).

AFFIRMED

IRWIN CHARLES COHEN)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
CHARLES E. FRANKFORT)	
Administrative Patent Judge)	APPEALS AND
)	
)	INTERFERENCES
)	
JOHN P. McQUADE)	
Administrative Patent Judge)	

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